

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Cr. No. 19-3595-KR

ANGELITA BENALLY,

Defendant.

UNOPPOSED MOTION TO MODIFY CONDITIONS OF RELEASE

(For Ruling Before a Magistrate Judge)

Defendant Angelita Benally, by and through her counsel of record, Assistant Federal Public Defender Emily P. Carey, moves this court to modify the existing Order Setting Conditions of Release (Doc. 16). Specifically, Ms. Benally is requesting that the Court allow her to be released from the third party custody of the La Pasada Halfway House and permit her to reside with her partner, Dirk Home, at his residence in Albuquerque, New Mexico. As grounds, Ms. Benally states the following:

1. On October 21, 2019, the Court held a detention hearing at which Ms. Benally requested release on account of her minimal criminal history, her family ties, and her need for continued medical care with providers in Albuquerque. The Court authorized Ms. Benally's release to the third party custody of the La Pasada Halfway House in Albuquerque, New Mexico. When space became available at La Pasada on October 28, 2019, the Court entered an Order Setting Conditions of Release (Doc. 16). Ms. Benally has been residing at the La Pasada Halfway House since that time.

2. Ms. Benally has complied with all of the conditions of her pretrial release without incident. She has benefitted from continuity of medical care and gained greatly from weekly

counseling sessions. When Ms. Benally's medical providers cleared her to work, albeit with restrictions, Ms. Benally proactively sought assistance from the Department of Vocational Rehabilitation and advises that she sent out over thirty employment applications and has had some interviews. Ms. Benally continues to undergo random urinalysis exams, all of which have returned negative results. In short, Ms. Benally has performed well on pretrial release.

2. Ms. Benally entered into a plea agreement with the United States on February 21, 2020 (Doc. 27). At the change of plea hearing, the Court allowed Ms. Benally to remain on release pending sentencing pursuant to 18 U.S.C. § 3143. (Doc. 28). Sentencing in this matter is presently set for May 21, 2020, and Ms. Benally remains out of custody.

3. Ms. Benally requests the Court's permission to allow her to terminate residence at the La Pasada Halfway House and to reside with her partner Dirk Home at his residence here in Albuquerque. Among other reasons for this request, Ms. Benally wishes to spend as much time with loved ones as she can before her sentencing – something that has been difficult because of the restrictive visiting hours at La Pasada in combination with her family members' work schedules and, in the case of her mother and sisters, geographical distance.

4. United States Pretrial Services Officer (USPO) Krystle Avrit does not oppose Ms. Benally's request. USPO Avrit has completed an assessment of Ms. Benally's proposed residence with Mr. Home and has approved the residence.

5. Assistant United States Attorney Frederick T. Mendenhall, III does not oppose Ms. Benally's request.

WHEREFORE, for the foregoing reasons, Ms. Benally respectfully requests that the Court modify her conditions and release her from the third party custody of the La Pasada Halfway House so that she may reside with her partner Dirk Home at his residence in Albuquerque. All previously

issued conditions in the Order Setting Conditions of Release, filed October 28, 2019, would remain in place (Doc. 16).

Respectfully Submitted,

FEDERAL PUBLIC DEFENDER

111 Lomas NW, Suite 501
Albuquerque, NM 87102
(505) 346-2489

Electronically filed February 27, 2020

/s/ Emily P. Carey

Assistant Federal Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to the following: Frederick Mendenhall III, Assistant United States Attorney.

Electronically filed February 27, 2020

/s/ Emily P. Carey

Assistant Federal Public Defender